



DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

FEB 18 2011

Re: Lusedra
Patent Nos. 6,872,838 and 6,204,257
Docket Nos. FDA-2009-E-0202
FDA-2009-E-0204

The Honorable David J. Kappos
Under Secretary of Commerce for Intellectual Property
Director of the United States Patent and Trademark Office
Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Director Kappos:

This is in regard to the patent term extension applications for U.S. Patent Nos. 6,872,838 and 6,204,257 filed by University of Kansas under 35 U.S.C. § 156. The patent claims Lusedra (fospropofol disodium), new drug application (NDA) 22-244.

In the April 5, 2010, issue of the Federal Register (75 Fed. Reg. 17142), the Food and Drug Administration published its determination of this product's regulatory review period, as required under 35 U.S.C. § 156(d)(2)(A). The notice provided that on or before October 4, 2010, 180 days after the publication of the determination, any interested person could file a petition with FDA under 35 U.S.C. § 156(d)(2)(B)(i) for a determination of whether the patent term extension applicant acted with due diligence during the regulatory review period.

The 180-day period for filing a due diligence petition pursuant to this notice has expired and FDA has received no such petition. Therefore, FDA considers the regulatory review period determination to be final.

Please let me know if we can provide further assistance.

Sincerely yours,

A handwritten signature in cursive script, reading "Jane A. Axelrad", is written over the typed name.

Jane A. Axelrad
Associate Director for Policy
Center for Drug Evaluation and Research

cc: Christopher N. Sipes
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